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**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

2017 **SENSITIVE**

MUR: 7040  
DATE COMPLAINT FILED: April 8, 2016  
DATE OF NOTIFICATION: April 13, 2016  
LAST RESPONSE RECEIVED: May 4, 2016  
DATE ACTIVATED: October 19, 2016

EARLIEST SOL: July 3, 2020  
LATEST SOL: December 1, 2020  
ELECTION CYCLE: 2016

**COMPLAINANT:** America Democracy Legal Fund  
**RESPONDENTS:** Bernie 2016 and Susan Jackson in her official capacity as treasurer  
**RELEVANT STATUTE AND REGULATION:** 52-U.S.C. § 30116(f)  
11 C.F.R. § 103.3(b)(3)  
**INTERNAL REPORTS CHECKED:** Disclosure Reports  
**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

The Complainant alleges that Bernie 2016 and Susan Jackson in her official capacity as treasurer ("Committee"), the principal campaign committee of Senator Bernard "Bernie" Sanders, a candidate for the Democratic nomination for President in 2016, accepted excessive contributions.<sup>1</sup> The Complaint is based upon information from the Commission's Requests for Additional Information ("RFAs") to the Committee regarding excessive contributions disclosed on the Committee's 2015 October Quarterly Report and 2015 Year-End Report. The Committee responds that it timely refunded or reattributed all excessive contributions disclosed on those

<sup>1</sup> On June 17, 2016, the Commission received a letter from the Complainant stating that it was withdrawing its complaint. On the same day, the Office of General Counsel sent a letter to the Complainant stating that its request to withdraw the Complaint will not prevent the Commission from taking appropriate action on the Complaint under the Act. See 52 U.S.C. § 30109.

1 reports. Although the Committee did not timely refund or reattribute all the excessive  
2 contributions at issue, the untimely portion is small and almost all of it was cured within 120  
3 days. Under these circumstances, we recommend that the Commission dismiss the allegation  
4 that the Committee violated 52 U.S.C. § 30116(f), send a caution letter, and close the file.

5 **II. FACTUAL AND LEGAL ANALYSIS**

6  
7 The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits a  
8 candidate or political committee from knowingly accepting contributions in violation of the  
9 contribution limits set forth in the Act.<sup>2</sup> For the 2016 election cycle, no person was permitted to  
10 make contributions to a candidate for federal office or his authorized political committee which  
11 in the aggregate exceeded \$2,700 for each election.<sup>3</sup>

12 Contributions which on their face exceed this limit and contributions which do not appear  
13 to be excessive on their face, but which exceed the limit when aggregated with contributions  
14 from the same contributor, may either be deposited into a campaign depository under  
15 11 C.F.R. §103.3(a) or returned to the contributor.<sup>4</sup> If any such contribution is deposited, the  
16 treasurer may request redesignation or reattribution of the contribution by the contributor in  
17 accordance with 11 C.F.R. § 110.1(b) or (k) as appropriate.<sup>5</sup> If a redesignation or reattribution is  
18 not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution,  
19 refund the contribution to the contributor.<sup>6</sup>

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<sup>2</sup> 52 U.S.C. § 30116(f).

<sup>3</sup> See 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b).

<sup>4</sup> See 11 C.F.R. § 103.3(b)(3).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

1 The Committee disclosed \$97,985 in excessive contributions on its 2015 October  
2 Quarterly Report and \$49,325 in excessive contributions on its 2015 Year-End Report, as  
3 identified in the Commission's RFAs addressed to the Committee.<sup>7</sup> While the Committee  
4 asserts that it timely refunded or reattributed all of the excessive contributions reported on those  
5 two reports,<sup>8</sup> the Committee's disclosure reports indicate that excessive contributions from ten  
6 contributors totaling \$5,487 on the 2015 October Quarterly Report and excessive contributions  
7 totaling \$1,975 from six contributors on the 2015 Year-End Report were not refunded or  
8 reattributed timely under 11 C.F.R. § 103.3(b)(3). Therefore, the Committee accepted excessive  
9 contributions totaling \$7,462.<sup>9</sup>

10 This amount, both in gross and as a percentage of the tens of millions of dollars in  
11 contributions the Committee received during the reporting periods at issue, is small.<sup>10</sup> Further,  
12 the great majority of the excessive contributions were refunded or reattributed within 120 days.<sup>11</sup>

13  
14 Under these particular  
15 circumstances, we recommend that the Commission exercise its prosecutorial discretion and

<sup>7</sup> See RFAI on the Committee's 2015 October Quarterly Report (Nov. 3, 2015) and RFAI on the Committee's 2015 Year-End Report (Feb. 11, 2016). The RFAs include lists of the contributors who made excessive contributions by date and amount.

<sup>8</sup> Committee Resp. at 2-3. The Committee made no mention of any redesignations.

<sup>9</sup> See 52 U.S.C. §§ 30116(a)(1)(A), 30116(f).

<sup>10</sup> The Committee reported receiving \$26.2 million in contributions on its 2015 October Quarterly Report and \$33.5 million in contributions on its 2015 Year-End Report. And of the total amount of \$147,310 in excessive contributions that the Committee disclosed on the two disclosure reports, the \$7,462 refunded or reattributed untimely represents only five percent of the excessives.

<sup>11</sup> Of the \$7,462 in untimely refunds or reattributions, \$5,597 was refunded or reattributed within 120 days of receipt.

dismiss the allegation that the Committee violated 52 U.S.C. § 30116(f), send a caution letter,  
and close the file.<sup>12</sup>

### III. RECOMMENDATIONS

1. Dismiss the allegation that Bernie Sanders 2016 and Susan Jackson in her official capacity as treasurer violated 52 U.S.C. § 30116(f) and send a caution letter;
2. Approve the appropriate letters;
3. Approve the attached Factual and Legal Analysis; and
4. Close the file.


Lisa J. Stevenson  
Acting General Counsel

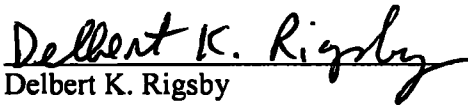
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1.12.17

Date

  
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<sup>12</sup> See *Heckler v. Chaney*, 470 U.S. 821 (1985).